

15E.193B Eligible housing business.

1. A housing business qualifying under this section is eligible to receive incentives and assistance only as provided in this section. An eligible housing business shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an enterprise zone designated pursuant to section 15E.194, subsection 4. Sections 15E.193 and 15E.196 do not apply to an eligible housing business qualifying under this section.

2. An eligible housing business under this section includes a housing developer, housing contractor, or nonprofit organization that builds or rehabilitates a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone.

3. The single-family homes and dwelling units which are rehabilitated or constructed by the eligible housing business shall include the necessary amenities. When completed and made available for occupancy, the single-family homes and dwelling units shall meet the United States department of housing and urban development's housing quality standards and local safety standards.

4. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business becoming ineligible and subject to the repayment requirements and penalties enumerated in subsection 7. The department may extend the prescribed two-year completion period for any current or future project which has not been completed if the department determines that completion within the two-year period is impossible or impractical as a result of a substantial loss caused by flood, fire, earthquake, storm, or other catastrophe. For purposes of this subsection, "*substantial loss*" means damage or destruction in an amount in excess of thirty percent of the project's expected eligible basis as set forth in the eligible housing business's application.

5. An eligible housing business shall provide the enterprise zone commission with all of the following information:

a. The long-term strategic plan for the housing business which shall include labor and infrastructure needs.

b. Information dealing with the benefits the housing business will bring to the area.

c. Examples of why the housing business should be considered or would be considered a good business enterprise.

d. An affidavit that it has not, within the last five years, violated state or federal environmental and worker safety statutes, rules, and regulations or if such violation has occurred that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment.

e. Information showing the total costs and sources of project financing that will be utilized for the new investment directly related to housing for which the business is seeking approval for a tax credit provided in subsection 6, paragraph "a".

f. If the eligible housing business is a partnership, S corporation, or limited liability company using low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development, the name of any partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company and the amount designated as allowed under subsection 8.

6. An eligible housing business which has been approved to receive incentives and assistance by the department of economic development pursuant to application as provided in section 15E.195 shall receive all of the following incentives and assistance for a period not to exceed ten years:

a. An eligible housing business may claim a tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. The new investment that may be used to compute the tax credit shall not exceed the new investment used for the first one hundred forty thousand dollars of value for each single-family home or for each unit of a multiple dwelling unit building containing three or more units. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V, or chapter 432. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust except as allowed for under subsection 8 when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development.

b. Sales, services, and use tax refund for taxes paid by an eligible business including an eligible business acting as a contractor or subcontractor, as provided in section 15.331A.

7. If a business has received incentives or assistance under this section and fails to maintain the requirements of this section to be an eligible housing business, the business is subject to repayment of all or a portion of the incentives and assistance that it has received. The department of revenue shall have the authority to recover the value of state taxes or incentives provided under this section. The value of state incentives provided under this section includes applicable interest and penalties. The department of economic development and the city and county, as applicable, shall enter into agreement with the business specifying the method for determining the amount of incentives or assistance paid which will be repaid in the event of failure to maintain the requirements of this section. In addition, a business that fails to maintain the requirements of this section shall not receive incentives or assistance for each year during which the business is not in compliance.

8. The amount of the tax credits determined pursuant to subsection 6, paragraph "a", for each project shall be approved by the department of economic development. The department shall utilize the financial information required to be provided under subsection 5, paragraph "e", to determine the tax credits allowed for each project. In determining the amount of tax credits to be allowed for a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans. Upon approving the amount of the tax credit, the department of economic development shall issue a tax credit certificate to the eligible housing business except when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development in which case the tax credit certificate may be issued to a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company in the amounts designated by the eligible partnership, S corporation, or limited liability company. An eligible housing business or the designated partner if the business is a partnership, designated shareholder if the business is an S corporation, or designated member if the business is a limited liability company, or transferee shall not claim the tax credit unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's return for the tax year for which the tax credit is claimed. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the tax credit, and other information required by the department of revenue. The tax credit certificate shall be transferable if the housing development is located in a brownfield site as defined in section 15.291, if the

housing development is located in a blighted area as defined in section 403.17, or if low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development. Not more than three million dollars worth of tax credits for housing developments that are located in a brownfield site as defined in section 15.291 or housing developments located in a blighted area as defined in section 403.17 shall be transferred in one calendar year. The three million dollar annual limit does not apply to tax credits awarded to an eligible housing business having low-income housing tax credits authorized under section 42 of the Internal Revenue Code to assist in the financing of the housing development. The department may approve an application for tax credit certificates for transfer from an eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 that would result in the issuance of more than three million dollars of tax credit certificates for transfer provided the department, through negotiation with the eligible business, allocates those tax credit certificates for transfer over more than one calendar year. The department shall not issue more than one million five hundred thousand dollars in tax credit certificates for transfer to any one eligible housing business located in a brownfield site as defined in section 15.291 or in a blighted area as defined in section 403.17 in a calendar year. If three million dollars in tax credit certificates for transfer have not been issued at the end of a calendar year, the remaining tax credit certificates for transfer may be issued in advance to an eligible housing business scheduled to receive a tax credit certificate for transfer in a later calendar year. Any time the department issues a tax credit certificate for transfer which has not been allocated at the end of a calendar year, the department may prorate the remaining certificates to more than one eligible applicant. If the entire three million dollars of tax credit certificates for transfer is not issued in a given calendar year, the remaining amount may be carried over to a succeeding calendar year. Tax credit certificates issued under this chapter may be transferred to any person or entity. Within ninety days of transfer, the transferee must submit the transferred tax credit certificate to the department of economic development along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of economic development shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required to receive the original certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the department of economic development shall not be transferable. A tax credit shall not be claimed by a transferee under subsection 6, paragraph "a", until a replacement tax credit certificate identifying the transferee as the proper holder has been issued.

The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

9. The department of economic development and the department of revenue shall each adopt rules to jointly administer this section.

98 Acts, ch 1179, §1; 2000 Acts, ch 1213, §58, 10; 2001 Acts, ch 141, §24, 8; 2002 Acts, ch 1145, §2, 3; 2003 Acts, ch 129, §3; 2003 Acts, ch 133, §1, 4; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §100, 159; 2003 Acts, 1st Ex, ch 2, §15, 209; 2005 Acts, ch 130, §1, 2; 2005 Acts, ch 179, §5355

2001 amendments to subsection 2 and subsection 6, paragraph a, apply retroactively on and after January 1, 2001; 2001 Acts, ch 141, §8

2001 amendment to subsection 6, paragraph b, is effective May 16, 2001, and applies retroactively to July 1, 1998; 2001 Acts, ch 141, §8

2003 amendment to subsection 8 takes effect May 16, 2003, and applies retroactively to tax years beginning on or after January 1, 2003; 2003 Acts, ch 133, §4

2005 amendments pertaining to the transfer of tax credit certificates for projects in brownfield sites or blighted areas apply to projects beginning on or after July 1, 2005; 2005 Acts, ch 130, §2